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10 **BEFORE THE**  
11 **BOARD OF REGISTERED NURSING**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
13 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 2008-275

14 **EVA H. QUISENBERRY**

1321 California Street

15 Imperial Beach, California 91932

**A C C U S A T I O N**

16 Registered Nurse License No. 428831

17 Respondent.

19 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

20 **PARTIES**

21 1. Complainant brings this Accusation solely in her official capacity as the  
22 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer  
23 Affairs.

24 2. On or about August 31, 1988, the Board issued Registered Nurse License  
25 Number 428831 to Eva H. Quisenberry ("Respondent"). The license will expire on or about  
26 December 31, 2009, unless renewed.

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## STATUTORY PROVISIONS

3. This Accusation is brought before the Board of Registered Nursing under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 118, subdivision (b), provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

6. Section 2811, subdivision (b), provides that the Board may renew an expired license at any time within eight years after the expiration.

7. Code section 2761(a) states, in pertinent part, that the Board may take disciplinary action against a licensed nurse for unprofessional conduct.

8. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to herself or himself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by her or his license.

...

9. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or

1 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
2 and enforcement of the case.

### 3 DRUGS

4 10. "Vicodin" is a compound consisting of 5 mg. hydrocodone bitartrate, also  
5 known as dihydrocodeinone, a Schedule III controlled substance as designated by Health and  
6 Safety Code section 11056(e)(4), and 500 mg. acetaminophen per tablet.

7 11. "Percocet," a brand of oxycodone, is a Schedule II controlled substance as  
8 designated by Health and Safety Code section 11055(b)(1)(N).

9 12. "Tylenol with Codeine No. 3" is a compound consisting of 30 mg. of  
10 codeine, a Schedule III controlled substance as designated by Health and Safety Code section  
11 11056(e)(2), and 300 mg. acetaminophen per tablet.

### 12 FACTS

13 13. In or about 1997 and 1998, while employed as a registered nurse at Sharp  
14 Chula Vista Medical Center, Chula Vista, California, Respondent did the following:

15 a. Respondent obtained Percocet, Vicodin, and Tylenol 3, controlled  
16 substances, a total of approximately 14 to 16 pills every day she worked, by signing out  
17 medications for various patients and taking the drugs for her own personal use.

18 b. Respondent possessed Percocet, Vicodin, and Tylenol 3, controlled  
19 substances, while Respondent did not have a prescription for those controlled substances.

20 c. Respondent self-administered Percocet, Vicodin, and Tylenol 3, controlled  
21 substances, without direction to do so from a licensed physician and surgeon, dentist or  
22 podiatrist.

23 d. Respondent's use of Percocet, Vicodin, and Tylenol 3, described above,  
24 was dangerous or injurious to herself, others, or the public, or impaired her ability to conduct  
25 with safety to the public her practice of registered nursing.

26 14. Between April and July 2002, while employed as a registered nurse at  
27 Sharp Chula Vista Medical Center, Chula Vista, California, Respondent did the following:

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1           a.       Respondent obtained Percocet, Vicodin, and Tylenol 3, controlled  
2 substances, by signing out medications for various patients and then taking the drugs for her own  
3 personal use.

4           b.       Respondent possessed Percocet, Vicodin, and Tylenol 3, controlled  
5 substances, while Respondent did not have a prescription for those controlled substances.

6           c.       Respondent self-administered Percocet, Vicodin, and Tylenol 3, controlled  
7 substances, without direction to do so from a licensed physician and surgeon, dentist or  
8 podiatrist.

9           d.       Respondent's use of Percocet, Vicodin, and Tylenol 3, described above,  
10 was dangerous or injurious to herself, others, or the public, or impaired her ability to conduct  
11 with safety to the public her practice of registered nursing.

12           15.     In August 2002, Respondent reported her 2002 unprofessional conduct,  
13 described above, to the Board of Registered Nursing and entered the Board's Diversion Program.

14           16.     Under the terms of Respondent's participation contract with the Board's  
15 Diversion Program, Respondent agreed to not consume any mood-altering substances, including  
16 alcohol. In or about March 2005, during a random fluid test, Respondent tested positive for  
17 alcohol. During a random fluid test in July 2005, Respondent again tested positive for alcohol.  
18 On September 1, 2005, Respondent was terminated from the Board's Diversion Program.

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20                   **FIRST CAUSE FOR DISCIPLINE**  
21                   **(Obtained, Possessed and Self-Administered Controlled Substances)**

22           17.     Respondent is subject to discipline under Code section 2761(a), on the  
23 grounds of unprofessional conduct as defined in Code section 2762(a), in that in or about 1997  
24 and 1998, while employed as a registered nurse at Sharp Chula Vista Medical Center, Chula  
25 Vista, California, Respondent obtained, possessed, and self-administered controlled substances  
26 without a valid prescription, as described above in paragraph 13, which is incorporated herein by  
reference.

27           18.     Respondent is subject to discipline under Code section 2761(a), on the  
28 grounds of unprofessional conduct as defined in Code section 2762(a), in that between April and

1 July 2002, while employed as a registered nurse at Sharp Chula Vista Medical Center, Chula  
2 Vista, California, Respondent obtained, possessed, and self-administered controlled substances  
3 without a valid prescription, as described above in paragraph 15, which is incorporated herein by  
4 reference.

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6 **SECOND CAUSE FOR DISCIPLINE**  
**(Harmful Use of Controlled Substances)**

7 19. Respondent is subject to discipline under Code section 2761(a), on the  
8 grounds of unprofessional conduct as defined in Code section 2762(b), in that in or about 1997  
9 and 1998, while employed as a registered nurse at Sharp Chula Vista Medical Center, Chula  
10 Vista, California, Respondent used controlled substances without a valid prescription, in a  
11 manner or to an extent that was injurious to herself, others or the public, or to the extent that such  
12 use impaired her ability to conduct with safety to the public registered nursing, as described  
13 above in paragraph 13, which is incorporated herein by reference.

14 20. Respondent is subject to discipline under Code section 2761(a), on the  
15 grounds of unprofessional conduct as defined in Code section 2762(b), in that between April  
16 2002 and July 2002, while employed as a registered nurse at Sharp Chula Vista Medical Center,  
17 Chula Vista, California, Respondent used controlled substances without a valid prescription, in a  
18 manner or to an extent that was injurious to herself, others or the public, or to the extent that such  
19 use impaired her ability to conduct with safety to the public registered nursing, as described  
20 above in paragraph 15, which is incorporated herein by reference.

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22 **FACTORS IN AGGRAVATION**

23 21. To determine the degree of discipline, if any, to be imposed on  
24 Respondent, Complainant alleges that on or about September 1, 2005, Respondent was  
25 terminated from the Board of Registered Nursing's Diversion Program for reasons other than  
26 successful completion. Respondent violated her contract with the Diversion Program in that  
27 during a random fluid test on or about March 15, 2005, Respondent tested positive for alcohol.  
28 Respondent again violated her contract with the Diversion Program in that during a random fluid

1 test in or about July 2005, Respondent tested positive for alcohol, as described above in  
2 paragraph 17 which is incorporated herein by reference.

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4 **PRAYER**

5 **WHEREFORE**, Complainant requests that a hearing be held on the matters  
6 herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

7 1. Revoking or suspending Registered Nurse License Number 428831, issued  
8 to Eva H. Quisenberry;

9 2. Ordering Eva H. Quisenberry to pay the Board of Registered Nursing the  
10 reasonable costs of the investigation and enforcement of this case, pursuant to Code section  
11 125.3; and,

12 3. Taking such other and further action as deemed necessary and proper.

13 DATED: 7/1/08

14  
15 Ruth Ann Terry  
16 RUTH ANN TERRY, M.P.H., R.N.  
17 Executive Officer  
18 Board of Registered Nursing  
19 Department of Consumer Affairs  
20 State of California  
21 Complainant

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Accusation (kdg) 10/11/07